

108TH CONGRESS  
1ST SESSION

# H. R. 796

To amend title XVIII of the Social Security Act to provide for coverage of expanded nursing facility and in-home services for dependent individuals under the Medicare Program.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. ENGEL introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to provide for coverage of expanded nursing facility and in-home services for dependent individuals under the Medicare Program.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Comprehensive Long-  
5 Term Care Act of 2003”.

1 **SEC. 2. EXPANDED LONG-TERM CARE SERVICES UNDER**  
2 **MEDICARE PROGRAM FOR DEPENDENT INDIVIDUALS.**  
3

4 (a) IN GENERAL.—

5 (1) PART A.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended—

7 (A) in subsection (a)—

8 (i) in paragraph (2)(B), by striking  
9 “subsection (f),” and inserting “subsection  
10 (f) and section 1889,”

11 (ii) by striking “and” at the end of  
12 paragraph (3),

13 (iii) by striking the period at the end  
14 of paragraph (4) and inserting “; and”,  
15 and

16 (iv) by adding at the end the following  
17 new paragraph:

18 “(5) long-term care services consisting of extended care services (in accordance with section  
19 1889).”; and  
20

21 (B) in subsection (b)(2), by striking “post-hospital” and inserting “except as provided in  
22 section 1889, post-hospital”.  
23

24 (2) PART B.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—  
25

1           (1) by striking “and” at the end of subpara-  
2 graph (U);

3           (2) by inserting “and” at the end of subpara-  
4 graph (V); and

5           (3) by adding at the end the following new sub-  
6 paragraph:

7           “(W) long-term care services consisting of in-  
8 home care (in accordance with section 1889);”.

9           (b) DESCRIPTION OF SERVICES; ELIGIBILITY.—Title  
10 XVIII of such Act is amended by inserting after section  
11 1888 the following new section:

12           “LONG-TERM CARE SERVICES FOR DEPENDENT  
13 INDIVIDUALS

14           “SEC. 1889. (a) IN GENERAL.—Benefits are payable  
15 under this title for long-term care services under this sec-  
16 tion only if—

17           “(1) the individual is a dependent individual;  
18 and

19           “(2) such services are provided in accordance  
20 with a case management plan developed by a case  
21 management agency.

22           “(b) SERVICES PROVIDED.—In this section, the term  
23 ‘long-term care services’ means—

24           “(1) in-home care (as defined in subsection (e));  
25 and

1 “(2) extended care services (as defined in sec-  
 2 tion 1861(h)), but only with respect to a chronically  
 3 dependent individual (as defined in subsection  
 4 (d)(2)).

5 “(c) PAYMENT FOR SERVICES.—

6 “(1) IN GENERAL.—Subject to paragraph (2),  
 7 Notwithstanding any other provision of law, the  
 8 amount payable under this title for long-term care  
 9 services under this section shall be determined in ac-  
 10 cordance with a fee schedule for such services estab-  
 11 lished by the Secretary.

12 “(2) IMPOSITION OF DEDUCTIBLE.—The  
 13 amount otherwise payable under this title for long-  
 14 term care services under this section furnished dur-  
 15 ing a calendar year shall be reduced by an amount  
 16 equal to the deductible imposed for inpatient hos-  
 17 pital services for the year under section 1813(a)(1).

18 “(d) DEPENDENT INDIVIDUAL DEFINED.—

19 “(1) IN GENERAL.—In this section, the term  
 20 ‘dependent individual’ means an individual who—

21 “(A) is unable to perform (without sub-  
 22 stantial assistance from another individual) be-  
 23 cause of physical or cognitive impairment at  
 24 least 2 activities of daily living (as defined in  
 25 paragraph (3)); or

1           “(B) has a similar level of disability due to  
2           cognitive impairment that requires substantial  
3           direction, instruction, or supervision of another  
4           individual in order—

5                   “(i) to perform at least 2 activities of  
6                   daily living; or

7                   “(ii) to remain in the community  
8                   without causing harm to self or others be-  
9                   cause of inappropriate behavioral patterns.

10           “(2) CHRONICALLY DEPENDENT INDIVIDUAL.—

11           In this section, the term ‘chronically dependent indi-  
12           vidual’ means a dependent individual who would  
13           meet the requirements of paragraph (1) if ‘3 activi-  
14           ties of daily living’ were substituted for ‘2 activities  
15           of daily living’.

16           “(3) ACTIVITIES OF DAILY LIVING DEFINED.—

17           The ‘activities of daily living’ referred to in this sub-  
18           section are as follows:

19                   “(A) Eating.

20                   “(B) Bathing.

21                   “(C) Dressing.

22                   “(D) Toileting.

23                   “(E) Transferring in and out of a bed or  
24                   in and out of a chair.

25           “(e) IN-HOME CARE.—

1           “(1) IN GENERAL.—For purposes of this sec-  
2           tion, the term ‘in-home care’ means the items and  
3           services described in paragraph (2) furnished to an  
4           individual by a home care agency (as defined in sec-  
5           tion 1861(ww)) or by others under arrangements  
6           with them made by the agency provided in a place  
7           of residence used as such individual’s home (other  
8           than services described in paragraph (2)(H)).

9           “(2) SERVICES DESCRIBED.—The items and  
10          services described in this paragraph are as follows:

11               “(A) Nursing care provided by or under  
12               the supervision of a registered professional  
13               nurse.

14               “(B) Services of a homemaker/home health  
15               aide who has successfully completed a training  
16               and competency evaluation program approved  
17               by the Secretary.

18               “(C) Personal care services.

19               “(D) Medical social services.

20               “(E) Physical, occupational, or respiratory  
21               therapy or speech-language pathology services.

22               “(F) Medical supplies (other than drugs  
23               and biologicals) and durable medical equipment,  
24               while under such a plan.

1           “(G) Patient and caregiver (including fam-  
 2           ily caregiver) education and training to develop  
 3           skills necessary to permit the individual to re-  
 4           main in the home setting.

5           “(H) Community care services furnished  
 6           outside of the place of residence.

7           “(I) Such other home-based items and  
 8           services (other than room and board) as the  
 9           Secretary may approve.

10          “(f) CASE MANAGEMENT REQUIREMENTS.—

11           “(1) REQUESTS FOR ASSESSMENT.—Each indi-  
 12          vidual entitled to benefits under part A or part B  
 13          (or another person on such individual’s behalf) may  
 14          request a case management agency to conduct an as-  
 15          sessment under this subsection to determine whether  
 16          the individual is a dependent individual or a chron-  
 17          ically dependent individual and to assess the individ-  
 18          ual’s needs for long-term care services under this  
 19          section.

20           “(2) DESCRIPTION OF PLANS.—For purposes of  
 21          this section, a ‘case management plan’ means, with  
 22          respect to an individual, a written plan of care  
 23          which—

1           “(A) is established and periodically re-  
2           viewed and revised by a case management agen-  
3           cy; and

4           “(B) reflects the individual’s needs identi-  
5           fied in the assessment under paragraph (1).

6           “(3) CASE MANAGEMENT AGENCY DEFINED.—

7           In this section, the term ‘case management agency’  
8           means a nonprofit or public agency or organization  
9           (or a nonprofit or public subdivision of such an  
10          agency or organization) certified by the Secretary to  
11          conduct assessments and establish case management  
12          plans under this subsection which—

13           “(A) is experienced in conducting assess-  
14           ments, in establishing and periodically reviewing  
15           and revising case management plans for nurs-  
16           ing facility services and in-home care, and in  
17           coordinating and reviewing the quality of the  
18           provision of such services and care;

19           “(B) is capable of efficiently and effectively  
20           performing directly or through contracts under  
21           paragraph (4) such duties; and

22           “(C) does not provide long-term care serv-  
23           ices or nursing facility services and does not  
24           have a direct or indirect ownership or control  
25           interest in, or direct or indirect affiliation or re-



1           lationship with, an entity that provides, such  
2           services.

3           “(4) CONTRACTING OUT CERTAIN FUNC-  
4           TIONS.—The Secretary shall permit a case manage-  
5           ment agency, to the extent necessary to carry out  
6           functions under this section, to provide for assess-  
7           ments and case management plans through con-  
8           tracts with nonprofit or public organizations which  
9           do not provide long-term care services or nursing fa-  
10          cility services and do not have a direct or indirect  
11          ownership or control interest in, or direct or indirect  
12          affiliation or relationship with, an entity that pro-  
13          vides, such services.”.

14          (c) CONFORMING AMENDMENTS.—(1) Section  
15 1833(a)(1) of the Social Security Act (42 U.S.C.  
16 1395l(a)(1)) is amended—

17           (A) by striking “and” before “(U)”; and

18           (B) by inserting before the semicolon at the end  
19          the following: “, and (V) with respect to expenses in-  
20          curred for services described in section  
21          1861(s)(2)(W), the amounts paid shall be the  
22          amounts determined under section 1889(c);”.

23          (2) Section 1861 of the Social Security Act (42  
24          U.S.C. 1395x) is amended by adding at the end the fol-  
25          lowing new subsection:

1 “HOME CARE AGENCY

2 “(ww) The term ‘home care agency’ means a public  
3 agency or private organization, or a subdivision of such  
4 an agency or organization, which is a home health agency  
5 (as defined in subsection (o)) or—

6 “(1) is primarily engaged in providing services  
7 of homemaker/home health aides and personal care  
8 aides;

9 “(2) maintains clinical records on all patients;

10 “(3) in the case of an agency or organization in  
11 any State in which State or applicable local law pro-  
12 vides for the licensing of agencies or organizations of  
13 this nature—

14 “(A) is licensed pursuant to such law, or

15 “(B) is approved, by the agency of such  
16 State or locality, responsible for licensing agen-  
17 cies or organizations of this nature, as meeting  
18 the standards established for such licensing;  
19 and

20 “(4) meets such other requirements as the Sec-  
21 retary may find necessary in the interest of the  
22 health and safety of individuals who are furnished  
23 services by such agency or organization and for the  
24 effective and efficient operation of the program.”.

1       (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to items and services furnished on  
3 or after January 1, 2004.

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